

November 9, 2017

**BY ELECTRONIC FILING**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

**Re: NOTICE OF EX PARTE**  
**GN Docket No. 14-177, IB Docket Nos. 15-256 & 97-95, RM-11664,**  
**WT Docket No. 10-112:** *Use of Spectrum Bands Above 24 GHz For Mobile Radio*  
*Services, et al.*  
**ULS File Nos. 0007652635 & 0007652637:** *AT&T Mobility Spectrum LLC and FiberTower*  
*Corporation Seek FCC Consent to the Transfer of Control of 24 GHz and 39 GHz*  
*Licenses*  
**ULS File No. 0007765708:** *Cellco Partnership d/b/a Verizon Wireless and XO Holdings*  
*Seek FCC Consent to the Transfer of Control of Local Multipoint Distribution*  
*Service and 39 GHz Licenses Held by XO Holdings Subsidiary Nextlink Wireless LLC*  
**ULS File No. 0007783428:** *Verizon Communications and Straight Path Communications*  
*Seek FCC Consent to the Transfer of Control of Local Multipoint Distribution*  
*Service, 39 GHz, 3650-3700 MHz, and Fixed Point to Point Microwave Licenses*

Dear Ms. Dortch:

In advance of the Federal Communications Commission's ("FCC" or "Commission") November Open Meeting, Competitive Carriers Association ("CCA")<sup>1</sup> writes to enhance the record in the above-referenced proceedings.<sup>2</sup> In a week, the Commission will consider a Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order ("draft Second Report & Order")<sup>3</sup> to take additional steps to create more flexible access to spectrum bands above 24 GHz. While CCA applauds the FCC's efforts to facilitate access to additional spectrum resources, CCA provides tailored recommendations to ensure all carriers can efficiently deploy next-generation technologies using vital millimeter wave ("mmW") spectrum.

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<sup>1</sup> CCA is the nation's leading association for competitive wireless providers and stakeholders across the United States. CCA's membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 customers to regional and national providers serving millions of customers. CCA also represents associate members including vendors and suppliers that provide products and services throughout the mobile communications supply chain.

<sup>2</sup> Letter from Courtney Neville, Policy Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, *et al.* (filed Oct. 20, 2017).

<sup>3</sup> FCC Fact Sheet, Draft Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order, GN Docket No. 14-177 (rel. Oct. 26, 2017) ("Draft Second Report & Order").

Tomorrow's dynamic and consumer-focused wireless marketplace depends on continued access to mmW spectrum. For this reason, CCA reiterates its request that the Commission make more mmW spectrum available to competitive carriers and provide for an expeditious auction of mmW spectrum that will offer industry a meaningful opportunity to develop a dynamic and competitive marketplace. What's more, as CCA has reiterated on record, the FCC should allow incumbent local multipoint distribution service ("LMDS") spectrum licensees to retain their original geographic size of Basic Trading Area for 28 GHz licenses and Economic Area for 39 GHz licenses.<sup>4</sup> Failing to adopt this change will have a detrimental impact on rural carriers. For example, as previously noted,<sup>5</sup> one larger licensee will have to comply with more than eight times the current substantial service requirements, and one rural carrier's substantial service requirements will multiply by almost ten if the FCC maintains this decision. If the FCC insists on changing the license size, alternatively,<sup>6</sup> the Commission should automatically renew incumbent licenses so that the incumbent license holders have the same time to buildout that the new license holders are given. To avoid the detrimental impact that some rural carriers will face as a result of the geographic area changes, this renewal should apply to all licenses within the same geographic area as the existing license that the impacted incumbent carrier held. Or, the Commission should automatically waive the June 1, 2014 deadline for incumbent license holders and extend the date to when new licensees will have to meet the requirements.

Additionally, CCA echoes proposals in the record to modify license block sizes. Specifically, CCA urges the Commission to license the 24 GHz band using 100 MHz blocks, rather than splitting the band as proposed in the FCC's draft Second Report & Order, to permit a variety of carriers to acquire licenses in this band.<sup>7</sup> The FCC's draft Second Report & Order intends to license the lower segment of the 24 GHz band (24.25-24.45 GHz) as one 200 MHz channel, and the upper segment (24.75-25.25) as one 100 MHz channel and two 200 MHz channels.<sup>8</sup> But as T-Mobile explains, this segmented band plan would "limit the number of entrants in the band,"<sup>9</sup> by allowing only a total of three licenses in the band. As a timely and real-world example, CCA has reiterated its request regarding the pending AT&T/FiberTower transaction that, in the interest of fiscal responsibility and ensuring that next-generation spectrum is put to its highest and best use, the Commission should ensure that FiberTower's terminated mmW licenses

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<sup>4</sup> Petition for Reconsideration of CCA, *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al.*, GN Docket No. 14-177, IB Docket Nos. 15-256 & 97-95, RM-11664, WT Docket No. 10-112 (filed Dec. 14, 2016) ("CCA Petition for Reconsideration"). See also, letter from Courtney Neville, Policy Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, et al. (filed Oct. 20, 2017).

<sup>5</sup> Letter from Michele C. Farquhar, Counsel to Nextlink Wireless, LLC and XO Communications, LLC, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, IB Docket Nos. 15-256 & 97-95, RM-11664, WT Docket No. 10-112 (filed July 8, 2016). See also, letter from Courtney Neville, Policy Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, et al. (filed Oct. 20, 2017).

<sup>6</sup> CCA Petition for Reconsideration at 9-11.

<sup>7</sup> See, generally, Reply Comments of United States Cellular Corporation, GN Docket No. 14-177 at 6-9 (filed Oct. 31, 2016) ("USC Reply Comments"); Comments of T-Mobile USA, Inc., GN Docket No. 14-177 at 10 (filed Sept. 30, 2016) ("TMUS Comments"). See also, letter from Grant B. Spellmeyer, Vice President – Federal Affairs & Public Policy, United States Cellular Corporation, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177 (filed Nov. 8, 2017).

<sup>8</sup> Draft Second Report & Order ¶ 33.

<sup>9</sup> TMUS Comments at 10.

are made available to all carriers at auction, not just AT&T.<sup>10</sup> FiberTower currently holds all 400 MHz of licensed spectrum in the 24 GHz band in multiple major markets including New York, Washington, DC, Chicago, Dallas, and Boston. The FCC's draft Second Report & Order would add another 300 MHz, for a total of 700 MHz of licensed spectrum, which would leave a minimum of 300 MHz of licensed 24 GHz spectrum available for stakeholders. As US Cellular has asserted, licenses in 100 MHz blocks are more appropriate for constrained bands like 24 GHz, where the FCC is seeking to maximize a limited amount of spectrum for a variety of stakeholders. Indeed, as the record reflects, licensing the 24 GHz band using 100 MHz blocks will allow at least three licensees to exist in the band, promote competition, and maximize next-generation technologies using mmW spectrum deployments.<sup>11</sup> The FCC should therefore reconsider its proposal in the draft Second Report & Order, and instead ensure that the 24 GHz band is licensed in 100 MHz blocks.

Finally, as CCA has previously requested, the FCC must consider how mmW spectrum can promote 5G deployment and protect against spectrum aggregation by the duopoly that will thwart competitive carriers' use of these vital bands.<sup>12</sup> Specifically, to accommodate technical challenges between bands and prevent anti-competitive aggregation,<sup>13</sup> the FCC should refrain from adopting pre-auction limits for the 24 GHz and 47 GHz bands at this time, and instead consider aggregation limits in these bands in the Second Further Notice of Proposed Rulemaking.<sup>14</sup> This will result in a more timely review of the mmW spectrum market and nicely coincide with the FCC's consideration of the proposal to eliminate the 1250 MHz pre-auction limit for the 28 GHz, 37 GHz, and 39 GHz bands.<sup>15</sup> The FCC likewise should further consider use of the 32 GHz band in its Second Further Notice of Proposed Rulemaking, in light of proposals in the record to effectively manage mmW spectrum in the public interest.<sup>16</sup>

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<sup>10</sup> See AT&T Mobility Spectrum LLC and FiberTower Corporation Seek FCC Consent to the Transfer of Control of 24 GHz and 39 GHz Licenses, ULS File Nos. 0007652635 & 0007652637 ("AT&T/FiberTower Transaction"); *and* Comments of Competitive Carriers Association, AT&T/FiberTower Transaction (filed Mar. 30, 2017). See also, letter from Courtney Neville, Policy Counsel, CCA, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177, et al. (filed Oct. 20, 2017).

<sup>11</sup> USC Reply Comments at 8; TMUS Comments at 10.

<sup>12</sup> See CCA Petition for Reconsideration at 12-14.

<sup>13</sup> The Commission also should reconsider whether to adopt a two-tiered approach for evaluating mmW spectrum aggregation: (1) a true one-third screen for all licensed mmW spectrum; and (2) a one-half screen for licensed spectrum in a particular band. *Id.* at 13.

<sup>14</sup> Draft Second Report & Order ¶ 72.

<sup>15</sup> *Id.* ¶ 104.

<sup>16</sup> See letter from Steve Sharkey, Vice President, Government Affairs – Technology and Engineering Policy, T-Mobile, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 14-177 (filed Oct. 25, 2017).

This *ex parte* notification is being filed electronically with your office pursuant to Section 1.1206 of the Commission's rules. Please do not hesitate to contact me with any questions or concerns.

Respectfully submitted,

*/s/ Rebecca Murphy Thompson*

Rebecca Murphy Thompson  
EVP & General Counsel  
Competitive Carriers Association

cc (via email): Rachael Bender  
Louis Peraertz  
Erin McGrath  
Kevin Holmes  
Umair Javed